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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,587	03/25/2004	Rhonda L. Childress	AUS920040118US1	7118

35525 7590 03/20/2008
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EXAMINER

WANG, LIANG CHE A

ART UNIT	PAPER NUMBER
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2153

NOTIFICATION DATE	DELIVERY MODE
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03/20/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

Office Action Summary	Application No. 10/809,587	Applicant(s) CHILDRESS ET AL.	
	Examiner Liangche A. Wang	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14-18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3-12, 14-18 and 20 are presented for examination.
2. Claims 1, 12 and 18 are amended and claim 2, 13 and 19 are cancelled.
3. Office action issued on 9/18/2007 is withdrawn.
4. IDS filed on 10/14/2005 is considered.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title

6. Claims 12, 14-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to software per se, which does not fall into the categories of “process”, “machine”, “manufacture” and “composition of matter”. Referring to claim 12, claim 12 recites an apparatus for monitoring resources that comprises “determination means”, “association means” and alteration means”, which could all be software modules within a software apparatus which directs the claim to software per se.

All dependent claims are rejected to as having the same deficiencies as the claims they depend from.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Schunk et al.,
US Patent Number 6,980,515, hereinafter Schunk.
9. Referring to claim 1, Schunk teaches a method for monitoring a resource to determine whether the resource is in a proper operational state (figure 16, determination is made at step 364), wherein the resource is a monitored resource (Col 19 lines 44-45), the method comprising:
 - a. determining whether the monitored resource is part of a composite resource (Col 18 lines 8-9, figure 16 step 364);
 - b. associating the monitored resource with the composite resource (Col 18 lines 9-12, figure 16, steps 364-366); and
 - c. altering a reporting format (updating resource table corresponds to “altering”) for monitoring information to report monitoring information for the monitored resource and for the composite resource (Col 18 lines 12-14, figure 16 step 368), wherein the monitoring information includes an operational status of the resource (Col 18 lines 8-22, steps 364 determines the whether the resource is stored locally, corresponds to "the operational status"), and wherein the composition resource is one of a cluster and a grid (local resources and global resources, figure 15), wherein the cluster is plurality of server data processing systems aggregated together in a computing cooperative fashion such that at least some data resources

of the plurality of server data processing systems are usable by another of the plurality of server data processing systems (global resources), and wherein the grid is a plurality of client and server data processing systems that operate to provide a plurality of computing resources for a common task to be performed by the grid (local resources Col 17 lines 15-21).

10. Referring to claim 3, Schunk teaches the method of claim 1, further comprising:
receiving the monitoring information at a resource manager (Col 17 lines 58-67, request is sent to the resource manager); and aggregating the monitoring information for the composite resource (Col 17 lines 64-67, resource manager performs the data lookup).
11. Referring to claim 4, Schunk teaches the method of claim 1, wherein associating the monitored resource with the composite resource includes creating an entry for the monitored resource in a resource data structure (Col 19 lines 26-31).
12. Referring to claim 5, Schunk teaches the method of claim 4, wherein the resource data structure is a resource table (figure 15 and figure 16).
13. Referring to claim 6, Schunk teaches the method of claim 4, wherein associating the monitored resource with the composite resource further includes linking the entry in the resource data structure with an entry in a composite resource data structure (figure 15).
14. Referring to claim 7, Schunk teaches the method of claim 6, wherein the composite resource data structure is one of a cluster data structure and a grid data structure (figure 15, global resources and local resources).
15. Referring to claim 8, Schunk teaches the method of claim 4, wherein the composite resource is a cluster and wherein associating the monitored resource with the composite

resource further includes linking the entry in the resource data structure with an entry in a cluster data structure (figure 15, global resources and local resources).

16. Referring to claim 9, Schunk teaches the method of claim 8, further comprising:

determining whether the cluster is part of a grid; and associating the cluster with the grid (figure 15).

17. Referring to claim 10, Schunk teaches the method of claim 9, wherein associating the

cluster with the grid includes linking the entry in the cluster data structure with an entry in a grid data structure (figure 15).

18. Referring to claim 11, Schunk teaches the method of claim 1, wherein determining

whether the monitored resource is part of a composite resource includes identifying at least one of files loaded for a composite resource, hooks being leveraged in an operating system of the resource, and processes running for a composite resource (Col 18 lines 3-7).

19. Referring to claims 12-20, claims 12-20 encompass the same scope of the invention as

that of the claims 1-5 and 11. Therefore, claims 12-20 are rejected for the same reason as the claims 1-5 and 11.

Conclusion

20. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Liang-che Alex Wang whose telephone number is

(571)272-3992. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.

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21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Liang-che Alex Wang
February 20, 2008

/Liangche A. Wang/
Primary Examiner, Art Unit 2153